

**DURHAM, NORTH CAROLINA
MONDAY, APRIL 21, 2014
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor William V. Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eugene Brown, Diane Catotti, Eddie Davis, Don Moffitt and Steve Schewel. Absent: None.

Also present: City Manager Thomas Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation followed by the pledge of allegiance led by Council Member Brown and Pack 108 [Tiger Cubs and Wolves] from First Calvary Baptist Church.

Mayor Pro Tempore Cole-McFadden acknowledged Tiger Cubs and Wolves along with Tiger Cub Den Leader Eddie White III from First Calvary Baptist Church. She shared that she met with Pack 108 prior to the meeting on how they can better serve the community. She thanked the parents and Pack leaders for their work with the boys.

The following ceremonial items were presented by Mayor Bell and comments were made by each recipient for their recognition:

- (1) 2014 Earth Day Proclamation presented to Parks and Recreation Director Rhonda Parks.
- (2) Wyland Foundation National Mayor's Challenge for Water Conservation Proclamation presented to Assistant Water Management Director Vicki Westbrook; and
- (3) National Community Development Week Proclamation presented to Community Development Director Reginald Johnson

Mayor Pro Tempore Cole-McFadden recognized the Carolina Theatre staff in attendance at the meeting.

Mayor Bell asked for priority items by the City Manager, City Attorney and City Clerk. There were no priority items.

Mayor Bell explained that the Consent Agenda is approved with a single motion and items pulled from that agenda by any citizen or council member will be discussed at the end of the agenda. Consent Agenda Item #7 [Telecommunication License Agreement With Microelectronics Center of North Carolina (MCNC)] was pulled by a citizen.

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to approve the Consent Agenda as amended was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to approve City Council minutes for the February 6, 2014 City Council Work Session and March 6, 2014 Special Council Meeting was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: WORKFORCE DEVELOPMENT BOARD - APPOINTMENT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to appoint Ernie C. Mills, Sr. to the Workforce Development Board representing Private Sector with the term to expire on June 30, 2016 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: AWARD OF DEDICATED HOUSING FUNDS AND HOME FUNDS TO DURHAM COMMUNITY LAND TRUSTEES, INC. FOR THE RENOVATION OF RENTAL HOUSING UNITS IN THE SOUTHSIDE NEIGHBORHOOD - E. PIEDMONT AVENUE

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to declare the properties surplus located at 102, 104, 110, 112, 114, 116 and 120 E. Piedmont Avenue;

To authorize the transfer of the property under the authority of and in compliance with NCGS 160A-267 and 160A-279; accept the proposal from Durham Community Land Trustees, Inc. (DCLT);

To authorize the City Manager or Mayor to deed, sell and convey the property at no cost by a non-warranty deed which includes relevant covenants that the property be used for affordable housing;

To authorize the expenditure of \$300,000.00 in Dedicated Housing funds and \$447,806.00 in HOME funds; and

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To authorize the City Manager to execute a Dedicated Housing fund construction/permanent loan agreement and other related legal documents in the amount of \$300,000.00 that is forgiven over a period of 20 years at 0% interest and a HOME construction/permanent loan agreement and other related legal documents in the amount of \$447,806.00 that is forgiven over a period of 20 years at 0% interest with Durham Community Land Trustees, Inc. was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: PARTIAL PAYMENT TO PARKWOOD VOLUNTEER FIRE DEPARTMENT FOR FIRE PROTECTION IN SOUTHERN DURHAM

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to enter into a settlement agreement with Parkwood Volunteer Fire Department in the amount of \$64,310.47 for fire protection services from July 1, 2013 to December 11, 2013 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF DURHAM AND THE CITY OF FAYETTEVILLE FOR USE OF THE CITY'S 800 MHZ RADIO SYSTEM

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute an interlocal agreement with the City of Fayetteville to allocate certain radio system resources for use by the City of Fayetteville and setting the terms and payment for the shared resources was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: BUILDING AND SERVICES AGREEMENT BETWEEN THE CITY OF DURHAM AND THE CAROLINA THEATRE OF DURHAM, INC.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to enter into an Agreement with The Carolina Theatre of Durham, Inc. from the date of its making, being the date appearing in the first paragraph of the Agreement, through June 30, 2024, for programs and to operate the facility; and

To authorize the City Manager the right to extend the Contract upon the same terms and conditions for a period equal to two five year extensions, such extensions of the Agreement may be at any point where extensions are authorized by agreement of both parties was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

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SUBJECT: CIP ORDINANCE AMENDMENT FOR BAY POINTE PHASE 3, GREEN GARDENS PHASE 2 AND WINDERMERE RIDGE FAILED DEVELOPMENTS REIMBURSEMENT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt an Ordinance Amending the General Capital Improvement Project Ordinance #14464, Fiscal Year 2013-14, as amended, for the purpose of reimbursing Level Carolina Homes, LLC for completing the street infrastructure in Bay Pointe Phase 3 and Green Gardens failed developments; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance #14464, Fiscal Year 2013-14, as amended, for the purpose of reimbursing J & K Investments, LLC for completing the stormwater and street infrastructure in Windermere Ridge Townhomes Phase 1 failed development was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

Ordinance #14599

SUBJECT: GRANT AGREEMENT FOR SIDEWALK CONSTRUCTION ON CAMPUS WALK AVENUE AND LASALLE STREET

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2013-14, as amended, the same being Ordinance # 14464, for the purpose of receiving the federal funds; and

To adopt a Resolution Authorizing the City Manager to execute a grant agreement with North Carolina Department of Transportation (NCDOT) was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14600
Resolution #9889**

SUBJECT: BICYCLE AND PEDESTRIAN ADVISORY COMMISSION ANNUAL REPORT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive the 2013 Annual Report of the Bicycle and Pedestrian Advisory Commission from the Chair of the Commission was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

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SUBJECT: CONTRACT SR-58 CURED-IN-PLACE PIPE (CIPP) INSTALLATION AND MANHOLE REHABILITATION - INSITUFORM TECHNOLOGIES, LLC

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute a contract with Insituform Technologies, LLC for construction services for the SR-58, Cured-In-Place Pipe Installation and Manhole Rehabilitation Project, 2014, in the amount not to exceed \$2,394,570.00;

To establish a contingency fund for the contract in the amount not to exceed \$239,430.00; and

To authorize the City Manager to negotiate and execute change orders for the contract provided the cost of all change orders and the original contract does not exceed the total project cost of \$2,634,000.00 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: 2013 RECREATION ADVISORY COMMISSION ANNUAL REPORT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to accept the 2013 Recreation Advisory Commission Annual Report was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: TIGER (TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY) FY 2014 PLANNING GRANT APPLICATION

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt a Resolution in support of the City's application for a TIGER planning grant for the Duke Beltline Trail was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

Resolution #9888

The City Council disposed of the following agenda items at the April 10, 2014 Work Session:

13. Report on Failed and Struggling Developments
(A presentation was received at the 04-10-14 Work Session)

To receive a report on the status of failed and struggling developments

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17. Elois Johnson

(Comments were received at the 04-10-14 Work Session)

To receive comments from Elois Johnson regarding a 1 cent increase to the tax rate for the Parks and Recreation Department.

18. John Tarantino

(Comments were received at the 04-10-14 Work Session)

To receive comments from John Tarantino regarding a musical selection by the Eagles Rock Band.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: AMENDMENT TO THE ECONOMIC INCENTIVE CONTRACT WITH THE GENTIAN GROUP, LLC FOR THE HOTEL DURHAM (HOLLAND HOTEL) PROJECT

To conduct a public hearing to receive comments on the proposed amendment to an economic development incentive agreement per G.S. 158-7.1; and

To authorize the City Manager to execute an amendment to the original agreement between the Gentian Group, LLC and the City of Durham extending the time required to secure a final Certificate of Compliance to no later than April 30, 2015.

Thomas Leathers, of the Economic and Workforce Development Office, made comments on this item outlining the staff recommendation.

Council Member Schewel asked staff to address what the change to the \$400,000 signifies and what takes place when the \$400,000 threshold is met.

Thomas Leathers, of the Economic and Workforce Development Office, stated the \$400,000 is the amount of the certificate of inspection that the developer had at the time of the agreement. He referenced that the agreement was delayed due to the public hearings and public charrette associated with the right-of-way proposal and easement that Council passed in December. The developer was not able to proceed with their plans for development and the \$400,000 represents the encumbered amount that the developer had expended in good faith efforts for the development agreement. In the original agreement--the certificate of inspection was to be 25% of the minimal capital investment for the entire project. He noted the \$400,000 is currently secured and there will be additional certificates of inspection that the developer will secure moving forward based on the delays.

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Council Member Schewel asked staff will there be an increased liability or lack of security.

Thomas Leathers responded no and there would be no liability or additional threats that the City would face.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute an amendment to the original agreement between the Gentian Group, LLC and the City of Durham extending the time required to secure a final Certificate of Compliance to no later than April 30, 2015 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

SUBJECT: PROPOSED ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH AUSTIN LAWRENCE PARTNERS EAST, LLC (ALP EAST, LLC) FOR CAPITAL INVESTMENTS AND ARCHITECTURAL ELEMENTS AT 119 WEST PARRISH STREET, 113 WEST PARRISH STREET, 118 WEST MAIN STREET, 120 WEST MAIN STREET, 122 WEST MAIN STREET AND 202 NORTH CORCORAN STREET

To conduct a public hearing to receive comments on the proposed economic incentive agreement per G.S. 158-7.1; and

To authorize the City Manager to execute an economic and community development agreement with Austin Lawrence Partners, LLC for a total incentive payment amount not to exceed \$3,973,095.00 over a 15 year period.

Mayor Bell opened the public hearing.

Economic and Workforce Development Director Kevin Dick made comments on the proposed economic development incentive agreement with Austin Lawrence Partners East. He informed Council that the presentation would come in two parts and acknowledged efforts of city staff involved with this project. He gave the following power point presentation:

Proposed Contract between Austin Lawrence Partners East, L.L.C. & the City of Durham Regarding Incentives for Capital Investment

The Project – City Center

- 26 story mixed use tower in the “center” of downtown (119 West Parrish Street);
- Restoration of 113 West Parrish Street and 118, 120, 122 West Main Street
- Redevelopment of Jack Tar Hotel (202 Corcoran Street); 44 to 74 room hotel and 260 space parking deck
- City Center Tower

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- 2 levels of sub-grade parking 170 spaces)
- Ground floor retail
- 4 floors of office space
- 20 floors of apartments
- Rooftop amenities
- 424,000 square feet of total space in City Center
- Includes 145,000 square feet of office and commercial space
- Maintains architectural elements at 4 addresses slated for rehabilitation
-

The Project - Jack Tar

- 14,000 square feet of retail
- 32,000 square feet of hotel space
- 110,500 square feet of public parking (50 spaces for general public use)
-

Project Benefits

- \$8.3M in new tax revenues yielding \$4.3M net revenue gain to the City
- 585 jobs (increased permanent foot traffic in downtown (includes approximately 325 new jobs)
- 250 temporary construction jobs
- \$65 million in qualified capital investment
- New opportunities for NC Works Career Center (formerly Durham JobLink Career Center applicants)
- New opportunities for Durham-based business, including Durham-based SDBE's
 - 15% goal for Durham based businesses including 5% SDBE's
 - Goals derived based upon collaborative work of OEWD and EOEAA
- Transformative Project that adds foot traffic and changes Durham skyline
- Additional Class A office space in downtown where occupancy is limited
- Additional housing (DMP Goal)
- Additional hotel rooms (DMG Goal)
- Additional retail downtown

Regarding the 15 percent goal, Mayor Pro Tempore Cole-McFadden asked staff to identify the types of businesses and contracts needed and at what juncture could Council know who they are.

Economic and Workforce Development Director Kevin Dick noted there would be construction related trades as well as professional services architectural, engineering, electrical, contracting, and plumbing, etc. He reported that the developer is required to submit quarterly reports and staff can bring reports back to Council.

Greg Hills, representing Austin Lawrence Partners [ALP], gave a power point presentation on the City Center Building and Jack Tar Hotel.

- **The City Center Building**
- **City Center Building Programming**
- **City Center Building Project Timeline**
- **Jack Tar Redevelopment**

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- **Jack Tar Design Concept**
- **Jack Tar Programming**
- **Jack Tar Project Timeline**
- **Community Benefits**

Downtown Rejuvenation

- Developments will transform a blighted area of downtown into a lively center of retail activity
- Mix of national and local retailers will serve as a great amenity for downtown's residents and office employees

Preservation of Historic Assets

- The City Center project features the rehabilitation of five facades to historic condition and appearance
- Jack Tar project involves the rehabilitation of one of the city's largest and most underutilized historically contributing structures

Increased City Center Population

- City Center residents and Jack Tar visitors will support existing merchants and drive demand for additional dining, retail, and entertainment options

Inducement of Additional Development

- Nearby property owners will likely capitalize by redeveloping their sites into higher and better uses

Additional Office Inventory

- Additional Class A space provides recruitment opportunities for new businesses and retention options for expanding downtown businesses which are not currently available

Affordable lodging near the Durham Convention Center

- Jack Tar hotel will be priced lower than current downtown hotels as well as hotels under construction

Additional Parking Inventory

- ~200 spaces in the rehabbed Jack Tar parking deck will be available to the public during non-business hours
- **Historic Preservation**

Preservation of Historic Facades

- The City Center project features the rehabilitation of five facades to historic condition and appearance

Rehabilitation of the Jack Tar

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- Jack Tar project involves the rehabilitation of one of the city's largest and most underutilized historically contributing structures

Austin Lawrence Partners Collaboration with the City of Durham

- Austin Lawrence Partners is committed to working closely with the Historic Preservation Commission to ensure it meets all of the requirements outlined in its agreement with the HPC for the City Center Building and the Jack Tar Hotel projects
- A requirement to meet the HPC's criteria is embedded in the PPP contract
- ALP has extensive experience in historical preservation;
 - in Aspen alone ALP has worked closely with Aspen's Historic Preservation Commission over the last two decades to successfully redevelop and preserve seven properties
 - Austin Lawrence Partners has received accolades for historic restoration, including an "Outstanding Project" award recently presented by the City of Aspen and The Aspen Historic Preservation Commission in 2012
- **Public Investment Summary**
- ALP East is seeking public investment of \$6,000,000 NPV to fill financing gaps associated with both projects

- **City Center & Jack Tar Rehabilitation Plan**

Preservation of Historic Facades

- Austin Lawrence Partners understands the significance of preserving the historic facades of the City Center Building and will take the necessary steps to treat the needs of the structure in the construction phase
- While working under agreement and closely with the HPC, steps to ensure the facades successful rehabilitation are expected to include:
 - **Treatment during the construction phase:** ALP will most likely lift the facades during the construction period to mitigate risk of potential damage in the building phase
 - **Character preservation:** The materials ALP will use to rehabilitate the existing structure will reflect the facades original exterior
 - **Historical appearance:** ALP will work closely with HPC to select paint colors and designs that will be based upon the building's historical appearance

Rehabilitation of the Jack Tar

- Austin Lawrence Partners has selected a Durham local architectural firm, Center Studio Architecture, for the Jack Tar Hotel
- Center Studio Architecture is experienced in redevelopment projects and working in collaboration with SHPO and HPC
- Focuses during the rehabilitation phase:

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- **Step I:** clearing and cleaning the area adjacent to the Jack Tar parking structure and restoring it to a useable condition
- **Step II:** Structural work, color palettes, and retail programming will be selected in collaboration with HPC and will be designed to meet the historical characteristics of the Jack Tar Hotel
- **Step III:** ALP expects to oversee the hotel's operations and continue to focus on the Jack Tar Hotel providing community benefits
- **City Center Preservation Plan Preservation of Historic Facades Austin Lawrence Partners has agreed to the following historical preservation outline provided by the City:**

118 West Main Street

- **Original materials to be retained** including: decorative brickwork features, decorative diamond panels, flat rectangular decorative band above third floor windows
- **Materials to be removed:** concrete infill/veneer and storefront
- **Missing features to be re-created** including: second floor pressed metal cornice, second and third floor window opening proportions (assumed exist behind concrete infill), double hung sash and transoms within second and third floor window openings, square brick pediment at top of façade, cast stone cornice above first floor storefront, replace or recreate painted wood storefront system including painted wood kick plate assembly

120 West Main Street

- **Original Materials to be retained** shall include: decorative brickwork features, second floor window openings, stone sills and lintels
- **Materials to be removed:** first floor storefront
- **Missing features to be re-created:** second floor pressed metal cornice, double hung window sash with transoms at second floor, simple cornice (wood?) over first floor storefront- framing remains, replace or recreate painted wood storefront system including painted wood kick plate assembly

122 West Main Street

- **Original Materials to be retained** shall include: decorative brickwork features, second floor window openings, window sash, stone lintels and sills
- **Materials to be removed:** first floor storefront
- **Missing features recommended for re-creation:** second floor pressed metal cornice, replace or recreate painted wood storefront system including painted wood kick plate assembly

113 West Parrish Street

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- **Original Materials to be retained** shall include: decorative brickwork features
- **Materials to be removed:** concrete infill/veneer and storefront
- **Missing features to be re-created:** second floor pressed metal cornice, second floor window opening proportions (assumed exist behind concrete infill), replace or recreate painted wood storefront system including painted wood kick plate assembly

115 – 117 West Parrish Street

- **Original Materials to be retained shall include:** decorative brickwork features, granite window sills, storefront openings at ground floor level (i.e. the 2 intermediate brick piers are original)
- **Materials to be removed:** storefront infill, existing elevator/stair tower
- **Missing features to be re-created:** second floor pressed metal cornice, second floor window 1/1 double hung wood windows, sheet metal cornice above storefront (original remains but is in bad condition), fabricate new “dummy” sheet metal collector boxes and 6” downspouts to match existing or infill scupper holes at brick façade

Geoff Durham, representing Downtown Durham, Inc., spoke in support of the City Center and Jack Tar project. He outlined the following reasons for their support: project would have a transformative effect on the surrounding City Center District, would allow nearby property owners to potentially capitalize on future redevelopment of their site into higher and better uses as well as serve a beacon to downtown visitors, would improve pedestrian connectivity between the downtown districts and would be consistent with the goals of the Downtown Master Plan for a multi-story mixed-use development in the City Center District.

Shelly Green, representing the Durham Convention and Visitors Bureau, offered her support for this project. She commented on the hotel study, felt that the price point for this hotel would appeal to many visitors that may not be able to stay in the 21C and noted this project would generate revenue.

Casey Steinbacher, representing the Greater Durham Chamber of Commerce, spoke in favor of this project. She noted the incredible density that would be created in downtown Durham as well as the Class A office space.

Andrea Harris, representing the Institute of Minority Economic Development, stated that she celebrates this development because of the developer’s partnership and commitment in working with them and their level of potential investment in downtown Durham. She stated as Council work towards having a positive response to this project, that they also work towards reinvigorating the Parrish Street Fund and other repairs that need to be made on Parrish Street.

Gray Brooks, owner of Pizzeria Toro, spoke in favor of this project due to the density and commented that there was too much office space in the downtown area.

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Council Member Davis asked the developer did they have dialogue and conversation with the current business owners about the potential of what may be coming and have they been kept abreast of where they may fall into this concept.

Greg Hills, the Developer, noted a PAC 5 group meeting was held in downtown with 120 people in attendance discussing what they were doing and the concept and have incorporated some of their input. He stated that they have not done a good job since that time. He noted that he spoke with Gwen at Blue Coffee Café about her interest in staying since they have a diner concept and noted that he would be meeting with her this week. In terms of moving forward, he stated they plan to have a person from their group who will be communicating with local businesses to discuss what they will be doing, the construction management plan and interruptions, etc. He noted in terms of retail that has not been defined enough.

Amanda Moreau, contractor for the project, addressed concerns raised at the Work Session about the facade on Parrish Street at the request of Council Member Brown. She stated that they have preliminary plans for structural reinforcement of existing facades to make sure they are maintained structurally while they demo out the building that is behind them now and then restoring them back to the beauty that they were 100 years ago. Also, she referenced the mock visual plan that illustrated steel reinforcements of the structure. She explained why it is not a good idea to remove the debris first, commented on the future plans for façade which would remain the existing height and discussed timeline.

Greg Hills, the developer, discussed the financial investment they have made for this project and made comments about the financing market.

Council Member Schewel stated that he felt more comfortable after the timeline had been moved up for pulling permits and with facade photographs. He asked questions relating to the plan for current parkers at the Corcoran Street Parking Deck, jobs, occupancy and sales tax, condos, private investment and construction disruption.

Greg Hills, the developer, commented on the daily utilization of the Corcoran Street Parking Deck referencing spaces being utilized by the 21C construction people, Skanska, office users and the Marriott. He noted there were not a lot of people who had long-term contracts.

Economic and Workforce Development Director Kevin Dick explained why there was a difference in the jobs created between Hotel Durham (91) and Jack Tar (10) highlighting that there would be restaurants, hotel and the specialty boutique jobs. He reported out of the 500 office jobs--250 would be relocating and 250 would be new jobs as well as explained how \$3.4 million over the incentive period in occupancy and in retail sales taxes was developed.

Greg Hills, the developer, noted there will be a total of 132 residential units and if the market demand is strong enough there would be six floors of condos (23 units) and 109 rental units.

Economic and Workforce Development Director Kevin Dick commented on difference in the total private investment of \$85 million noted in the power point presentation and staff's memo

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indicating \$65 million. He stated the \$65 million represent qualified capital investment and the difference between two amounts is legal and administrative fees.

Amanda Moreau, the contractor, explained the process for minimizing the downtown disruption during the construction period.

Council Member Schewel thanked the development team for being present at meetings and bringing this project to downtown Durham. He commented on why he supports this project noting that it would be revenue positive during the period of incentive for the city and taxpayer, the project would be walkable, and noted the density and height is a long-term benefit in terms of affordability for people to live downtown.

Mayor Pro Tempore Cole-McFadden thanked the developer for investing in her hometown and shared memories of the Jack Tar Hotel. She stated the piece that is very attractive to her is the additional rooms that are needed downtown in order to attract more meetings and conferences.

Mayor Bell requested additional information on the financial aspect of this project.

Greg Hills, the developer, commented on the downside of not receiving financing. He noted it would take a national or international event, which is unforeseen, to scare investors.

Mayor Bell asked the developer are you looking at other sources of investment other than real estate investment trust.

Greg Hills, the developer, replied yes.

Mayor Bell raised a concern with the term capital investment spelled out in the agreement. He commented on the two property re-assessments that would take place by the time this 15-year agreement is completed which may lead to two reductions in the tax rate over the time of this agreement. The Mayor said that he would like to express the return in terms of absolute dollars rather than the way it's written in this agreement and offered the following wording: *We will expect the City taxes from this property to be at least \$327,408* so that there would not be any question when someone reviews this agreement in the future. In addition, he referenced Section 2.1 Capital Investment in the agreement that refers to expenditures that are subject to City and County property taxes and are consistent with the types of capital investment expenditures defined, etc. He suggested that the wording be, *the result in City taxes from this property should at least be \$327,408*. If it is more than that it's fine, but if it is less than that, then we are not meeting the agreement that we want.

Economic and Workforce Development Director Kevin Dick asked the Mayor if he wanted Section 2.1 Capital Investment under definitions to read Capital Investment that yields at least \$327,408.

Mayor Bell responded yes.

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Finance Director David Boyd informed the Mayor that they have to be careful in how this is structured in order to not talk about a tax rebate which is something that the City cannot do. He explained the justification for the language in the agreement, noted this agreement is consistent with some of the other agreements and they have tried to address that concern by being conservative in the assessed evaluations as well as not pledging the entire amount of the incremental revenue. He stated they believe that the number in the agreement does protect to a certain extent from what the Mayor is concerned about.

Mayor Bell stated his concern is that we should have surety that the property revenue that comes from this investment at least meets a certain minimum. He commented on the American Tobacco parking project referencing that you do not know what you're getting based on the agreement. He asked staff to give his request serious consideration.

Senior Assistant City Attorney Fred Lamar noted this agreement was drafted based on the current policy regarding capital investment.

Mayor Bell asked staff to come back and advise him why his recommendation cannot be accomplished.

Council Member Schewel offered alternative language: If the tax revenue on an annual basis is less than \$327,408 the owner of the property will make a payment providing the difference between the tax revenue and \$327,408.

Senior Assistant City Attorney Lamar stated that he would not recommend that language.

Economic and Workforce Development Director Kevin Dick stated this would be a direct correlation to a rebate which is disallowed by statute.

Mayor Bell stated that he is not trying to get a rebate, but to reassure projections that have been depended on from this increased property value will net at least \$327,408.00.

Senior Assistant City Attorney Lamar stated Council will be considering revisions to the policy in light of discussions with the County at some later date, and this issue would be better addressed if it is reflected in the policy.

Mayor Bell made comments regarding the new economic development policy and noted that the Cash flow Analysis [Exhibit D] -- was not a part of the agreement.

City Manager Bonfield asked Senior Assistant City Attorney Lamar would it be an issue if the Cash Flow Analysis is a part of the agreement.

Senior Assistant City Attorney Lamar noted if it is not referenced then it should not be a part of the agreement.

Due to concerns raised by Mayor Bell, he said that he would be voting against this item.

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Finance Director David Boyd explained the calculations used to determine the property tax revenue at the request of Council Member Moffitt.

Greg Hills, the developer, addressed timetable for approvals.

Mayor Bell closed the public hearing.

MOTION by Council Member Catotti seconded by Council Member Brown to receive comments on the proposed economic incentive agreement per G.S. 158-7.1; and

To authorize the City Manager to execute an economic and community development agreement with Austin Lawrence Partners, LLC for a total incentive payment amount not to exceed \$3,973,095.00 over a 15 year period was approved at 8:59 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: Mayor Bell. Absent: None.

SUBJECT: PROPOSED REVISIONS TO ECONOMIC DEVELOPMENT POLICY

To conduct a public hearing to receive comments on the proposed revised to economic development policy; and

To adopt a Resolution Establishing an Economic Development Financial Assistance and Incentive Policy for Job Creation and Capital Investment.

Reginald Jones, of the Office of Economic and Workforce Development, stated this item proposes changes in the Resolution Establishing an Economic Development Financial Assistance and Incentive Policy for Job Creation and Capital Investment Policy that was approved by the Durham City Council in April 2011. He reported the Office of Economic and Workforce Development has conducted a review of the City's current policy and recommends changes and edits to the policy to modify certain existing programs, and to provide greater clarity and consistency among all programs related to economic development incentives and financial assistance. He stated staff's recommendation is to hold a public hearing as well as adopt a revised a Resolution Establishing an Economic Development Financial Assistance and Incentive Policy for Job Creation and Capital Investment. Additionally, he stated staff would recommend the following: 1) the Ninth Street Commercial corridor be included in the Incentive Grant Programs, 2) designate Ninth Street as a targeted area beyond the CDA; 3) create a new private capital investment minimum for building improvement grants in the CDA targeted areas outside of downtown at \$50,000; 4) expand the definition of the Retail Professional and Services Grant by adding exterior improvements to it; 5) merge the Sign and Façade Grant programs into the Retail and Professional Services Grant [RPSG] programs. The funding for RPSGs would increase from \$15,000 to the new maximum of \$20,000 and the funds for signage would remain capped at \$2,500; 6) Change the time to complete the Building Improvement Grant [BIG] projects from 12 months to 18 months; and 7) change the language of Urban Growth Area [UGA] to Targeted Areas beyond the CDA.

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Mayor Bell opened the public hearing.

Victoria Peterson expressed a concern that the African American community is not going after these dollars. She requested information on the number of downtown buildings that are owned by African Americans and stated that she would like for the City to have a sister city relationship with an African American country.

Mayor Bell shared with Ms. Peterson that the City has a sister city relationship with Arusha, Tanzania.

Council Member Schewel asked staff to consider the following concerns when developing policy: 1) hotel target—how many and why [thought it was 700 now 1,200]; 2) page 3 - why is maximum incentive 16 percent--do we really want to continue to be that high, consider a single figure with city and county public investment together equaling a percentage; 3) page 3 - 16 percent maximum incentive can be exceeded to the extent required to offset increases in rates for parking spaces that are leased—concern that this is counterproductive in terms of our desire to make parking more market-rate based; 4) now that UGA no longer exists and in light of new annexation laws – why we would want to incentivize capital investment outside of the city limits since we would not be collecting taxes on real estate; 5) page 9 tax increment revenue, based on the current rate, exceeds City incentive—interested in including some percentage by which it must exceed the City incentive; and 6) bonus criteria – offer bonus for affordable housing which should be defined.

Economic and Workforce Development Director Kevin Dick said staff will provide answers to concerns raised when the policy comes back to Council.

Mayor Bell asked staff to review definition of tax increment revenue, based on current rate, exceeds City incentive based on his conversation earlier in the meeting regarding the incentive agreement with Austin Lawrence Partners. Regarding Item 4 [Standards for Jobs] in the Resolution, Mayor Bell asked staff to review linking these jobs that are created to Durham residents.

Mayor Bell closed the public hearing.

Economic and Workforce Development Director Kevin Dick outlined the purpose of this item. He stated the original intent was to bring this policy forward when the City and County had jointly developed an economic development strategic plan. He reported it was the desire of Council at the February 6th Work Session that staff bring back an amendment that would enable staff to administer economic development grant programs in the Ninth Street Design District and this policy amendment had that specific purpose. He reported staff will review other sections in totality when the joint Strategic Economic Development Plan is developed. He stated that work is ongoing and staff will bring a draft plan to Council in the late spring or early summer. He stated most of the improvements that would be happening in the Ninth Street Design District would not create a lot of jobs.

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For clarification, it was noted that the jobs portion for this item will not be seriously impacted by this amendment.

City Manager Bonfield noted there were no other incentives in the queue that would be job oriented in the next month or so.

MOTION by Council Member Schewel seconded by Council Member Moffitt to receive comments on the proposed revised to economic development policy; and

To adopt a Resolution Establishing an Economic Development Financial Assistance and Incentive Policy for Job Creation and Capital Investment was approved at 9:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

Resolution #9890

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: TELECOMMUNICATION LICENSE AGREEMENT WITH MICROELECTRONICS CENTER OF NORTH CAROLINA (MCNC)

Victoria Peterson thanked MCNC and its owner for being in the Triangle area and for hiring ex-offenders.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to enter into a Telecommunication License Agreement with Microelectronics Center of North Carolina (MCNC) for placement of fiber optic cable within City Public Way was approved at 9:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

[EXCUSE MAYOR WILLIAM V. BELL]

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to excuse Mayor Bell from the April 24, 2014 City Council Work Session was approved at 9:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

[EXCUSE COUNCIL MEMBER EUGENE BROWN]

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to excuse Council Member Brown from the April 24, 2014 City Council Work Session was approved at 9:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

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There being no further business to come before the City Council, the meeting was adjourned at 9:23 p.m.

Linda E. Bratcher, CMC
Deputy City Clerk

D. Ann Gray, MMC, NCCMC
City Clerk